

*City of St. Louis Department of Personnel Administrative
Regulation NO. 120A*

DRUG & ALCOHOL TESTING PROGRAM (DOT)

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II. PURPOSE:

The purpose of this regulation is to prevent the illegal and/or inappropriate use of drugs and alcohol within the City's workforce. The

ultimate goal is to prevent or reduce the accidents, injuries, serious health effects and human suffering that often result from drug and/or alcohol abuse or misuse.

III. POLICY:

It is the City's policy not to hire or continue to employ individuals who unlawfully or inappropriately use, manufacture, dispense, sell, possess, or distribute drugs and/or alcohol. Employees who test positive for drugs will be considered guilty of misconduct and must be dismissed. Employees who test positive for alcohol will be considered guilty of misconduct and will either be directed to mandatory treatment and/or disciplined up to and including dismissal.

IV. DRUG-FREE WORKPLACE:

Any City employee who is convicted of a criminal drug offense that takes place while either on or off duty, whether engaged in City business or not, is hereby required to report the conviction to his or her appointing authority within five (5) calendar days of the conviction. Any employee who fails to comply with this requirement or with any other provision of this regulation will be subject to disciplinary action up to and including dismissal.

V. EMPLOYEE ASSISTANCE PROGRAM:

City employees who are experiencing problems with drugs and/or alcohol are encouraged to contact the Employee Assistance Program (E.A.P.) for confidential, professional assistance. The E.A.P. can be reached by calling the telephone number provided on the attached "Certification and Declaration" form, or by calling the Employee Relations Section of the Department of Personnel at 622 3563. All calls will be handled in a confidential manner.

VI. DEFINITIONS:

For purposes of this regulation, the following terms and definitions shall apply:

A. "Adulterated Specimen@ means a urine specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of

specimen or showing an abnormal concentration of an endogenous substance.

B. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

C. "Commercial Motor Vehicle" means the following:

1. A motor vehicle that has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
2. Has a gross vehicle weight rating of 26,001 or more pounds;
3. Is designed to transport sixteen (16) or more passengers, including the driver; or
4. Is any size transporting hazardous materials requiring placards.

D. "Compliance" means submitting to drug and alcohol testing when required doing so, accepting a mandatory referral to the E.A.P. following a positive alcohol test or voluntary disclosure of a drug or alcohol problem, and following all requirements prescribed by the Substance Abuse Professional (SAP) regarding the treatment plan and follow-up testing.

E. "Confirmatory Drug Test" means a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

F. "Controlled Substance" means those substances controlled by federal or state law, for which the unauthorized possession, sale, manufacture, distribution, dispensation or use is illegal. This does not include alcohol.

G. "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.

H. "Criminal Drug Statute" means an act that violates a federal, state, or local statute prohibiting the unauthorized possession, sale, manufacture, dispensation, distribution, or use of a controlled substance.

I. "Dilute Specimen" means a urine specimen with creatinine concentration and specific gravity values that are lower than expected for human urine.

J. "Directly Observed Drug Screen" means a urine collection that involves the employee being directed by the collection agency observer to raise and lower clothing in order to allow the (same gender) observer to confirm that the employee is not using a prosthetic device and being observed during the entire collection process. An employee who declines to allow a directly observed collection as required by the United States Department of Transportation guidelines will be declared to have committed a refusal to test.

K. "DOT" means the United States Department of Transportation.

L. "Drug" means any controlled substance, including but not limited to substances controlled by federal or state law, for which the unauthorized possession, sale, manufacture, distribution, dispensation or use is illegal.

M. "Designated Employee Representative" (DER) is also known as the "Drug and Alcohol Program Administrator" (DAPA). This refers to the employee designated by the Director of Personnel to administer the City's drug and alcohol testing program, and to act as liaison between the medical and E.A.P. service providers and the several City operating departments on program-related matters.

N. "Follow-up test" means a drug and/or alcohol test authorized on an unscheduled basis by the DAPA consistent with the written instructions of the Substance Abuse Professional (SAP) for an employee who was given a Mandatory Referral to the EAP because of a self-disclosure of a substance abuse problem or following a first positive alcohol test. Testing under these circumstances must be performed under direct observation.

O. "Initial Drug Test" also known as a "Screening drug test" is the first test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

P. "Invalid drug test" means the result reported by a United States Department of Health and Human Services HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Q. "Medical Review Officer" (MRO) means a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

R. "Negative Result" means the result reported by that HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

S. "Non-negative Specimen" means a urine specimen that is reported as adulterated, substituted, [positive for drug(s) or drug metabolite(s)] and /or invalid.

T. "Performing a Safety-Sensitive Function" means any on-duty period in which an employee is actually performing, or immediately ready to perform a safety-sensitive function (see definition at subpart Y of this Section).

U. "Positive Alcohol Test" means a confirmation test with a result of 0.04 or greater. A positive alcohol test is considered misconduct at work and subjects the employee to mandatory treatment and/or disciplinary action up to dismissal from employment.

V. "Positive Drug Result" means the result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations. Testing positive for a drug or drug metabolite is considered misconduct at work and cause for dismissal.

W. "Pre-Employment/Promotional or a Return from Seasonal Leave or Lay Off Test" means a DOT drug test required before an eligible candidate assumes employment as a new hire for City service to perform Safety Sensitive Functions, or before a promotional candidate assumes the Safety Sensitive Functions in his/or her new position. Return from Seasonal Leave or Lay Off test means a DOT drug screen given before an employee can return to CDL duties following a Seasonal Leave or Lay Off of a minimum of thirty (30) calendar days. This requirement also covers time spent on leave under a Mandatory Referral for substance abuse treatment and leaves of absence without pay or benefits. This requirement does not include absences due to the use of Family/Medical Leave (FMLA), vacation leave or compensatory time.

X. "Reconfirmed" means the result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Y. "Refusal to Test" means failure to appear for any test after a reasonable period of time as determined by the Department of Personnel, appointing authority or his or her representative after being directed to do so; failure to remain at the testing site until the testing process is complete; failure to provide an adequate sample of breath for an alcohol test or a sufficient amount of urine for a drug screen when directed, without a valid medical explanation; failure to permit the direct observation of the provision of a

urine specimen, when required; and failure to cooperate with any part of the testing process and/or providing an adulterated or substituted specimen. Refusal to test is considered misconduct at work and cause for dismissal.

Z. "Rejected for Testing" means the result reported by the HHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.

AA. "Return-to-Duty Test" means drug and/or alcohol test(s) performed on an employee who is enrolled in the City's Mandatory Treatment Program because of self-disclosure of a substance problem or following a first positive alcohol test. The Substance Abuse Professional assigned to the employee will communicate in writing to the City's Drug and Alcohol Program Administrator (DAPA) when an employee is ready to be tested, prior to returning to the workplace. The DAPA will authorize such testing and report the results to the appointing authority prior to the employee's return to work. This test must be performed under direct observation as required by the Department of Transportation rules.

BB. "Safety-Sensitive Function" means any time an employee spends driving, in readiness to drive, or immediately available to drive a commercial motor vehicle. This includes all time spent:

1. At a City facility or other location waiting to be dispatched or assigned to drive a commercial motor vehicle, unless specifically released from duty;
2. Inspecting, servicing, or conditioning a commercial motor vehicle;
3. Repairing, obtaining assistance for, or remaining in attendance with a disabled commercial motor vehicle;

4. All time attending a vehicle being loaded or unloaded, supervising the loading or unloading, giving or receiving receipts for shipments loaded or unloaded, or remaining in readiness to operate a commercial motor vehicle;

5. All time spent at the driving controls of a commercial motor vehicle in operation.

CC. "Split Specimen Collection" means a collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

"Substance Abuse Professional" means a state-licensed mental health professional (social worker, physician, psychologist, Employee Assistance Professional, addiction counselor) certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission with clinical experience in the diagnosis and treatment of alcohol and drug related disorders.

DD. "Substituted Specimen" means a urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

EE. "Testing Facility" means any outpatient medical facility, hospital emergency room or any City work site, which can be accessed by the on-site collection service.

VII. PROHIBITED ALCOHOL USE:

A. No employee shall report for duty or remain on duty with an alcohol concentration of 0.04 or greater. Moreover, no employee shall consume alcohol while on duty and/or while engaged in City business.

B. Employees who are performing Safety Sensitive Functions as required by driving or repairing, or otherwise attending to commercial motor vehicles during on-duty periods are further prohibited from:

1. Reporting to work with an alcohol concentration of 0.02 or greater;
2. Consuming alcohol within four (4) hours of (a) reporting to work, (b) driving or repairing a commercial motor vehicle, or (c) performing any other safety-sensitive function. This includes a prohibition on alcohol consumption during the entire work period, including, but not limited to lunch breaks;
3. Consuming alcohol within the eight (8) hour period immediately following a vehicular accident that requires post-accident drug and alcohol tests, or until undergoing such tests, whichever occurs first;
4. Consuming alcohol while performing a Safety-Sensitive Function.

C. Possession of alcoholic beverages in the workplace is prohibited, and will result in disciplinary action up to and including dismissal.

VIII. PROHIBITED DRUG USE:

Employees are prohibited from using drugs during on-duty periods except when used pursuant to the instructions of a licensed medical practitioner who has advised the employee that the drug(s) will not adversely affect the employee's ability to safely perform the duties of his/her position. The unlawful possession, use, distribution, dispensation, manufacture or sale of controlled substances is prohibited whether on or off duty, whether at the workplace or elsewhere.

IX. KNOWLEDGE/DISCLOSURE OF DRUG AND ALCOHOL USE:

A. Supervisors and managers who have knowledge that an employee has used drugs or alcohol in a manner prohibited under Sections VII and VIII of this regulation, or is under the influence of drugs or alcohol must refer the employee for drug and/or alcohol tests. Failure to make the

referral is a violation of the City's policy on drugs and alcohol, and cause for disciplinary action.

B. Any employee who performs Safety Sensitive Functions and who voluntarily discloses a problem with drugs or alcohol to a supervisor or manager or submits a Family and Medical Leave request for substance abuse treatment must be placed on leave and given a mandatory referral to the E.A.P. for assessment, treatment and/or referral. It will not be considered voluntary disclosure if said disclosure occurs on the date an employee is notified that he/she will be required to submit to an alcohol and/or drug test or following the administration of said test(s). Employees may return to work only after they are declared ready to do so by the E.A.P. and test negative on a "Return to Duty" drug and/or alcohol tests. After an employee has returned to duty, he/she will be subject to follow-up testing, and monitored for compliance with the prescribed treatment plan by the Substance Abuse Professional for at least one (1) year or longer if so determined by the SAP.

X. REQUIRED TESTING (DOT):

Employees and applicants for employment with the City of St. Louis may be tested for drugs and/or alcohol in accordance with the provisions of this regulation. Listed below are the conditions and/or circumstances under which DOT tests will be required.

A. Pre-Employment/Promotional or Return from Seasonal Leave or Lay Off Testing

Candidates for positions that require a CDL are, therefore, required to maintain a commercial driver's license (CDL), and must be issued a Drug Test Evaluation Notice and referred for a DOT pre-employment or promotional drug test. Only candidates who test negative for drugs are eligible for appointment to positions involving the performance of Safety Sensitive Functions.

Employees who occupy Career Seasonal positions or other Limited-Term positions that require the performance of Safety Sensitive Functions will be required to take DOT drug

tests before returning to duty after a Seasonal Leave of a minimum of thirty (30) days.

Employees who have been laid off from permanent positions that require the performance of Safety Sensitive Functions will be required to take DOT drug screens before returning to duty after a lay off of a minimum of thirty (30) days.

Prior to hiring a driver-applicant who has worked as a CDL driver during the preceding three (3) years, the Recruitment & Examination Division must request information from the previous employer about the driver's drug and alcohol testing record. The driver-applicant must give written consent to obtain the information as a condition of employment.

Questions about pre-employment and promotional drug testing and pre-employment physical examinations are to be directed to the Employee Relations Section of the Department of Personnel at 622-3563.

B. Reasonable Suspicion Testing

Employees who are believed to be under the influence of drugs and/or alcohol must be issued a Drug/Alcohol Evaluation Notice and referred for reasonable suspicion drug and/or alcohol tests.

Referrals for reasonable suspicion drug and/or alcohol tests must be based on specific, contemporaneous, articulable observation related to the appearance, behavior, speech or body odor of the employee. Indicators of drug and/or alcohol use may include, but are not limited to, indications of the chronic or withdrawal effects of drug use, the smell of

alcohol, an unsteady gait, swaying, staggering, slurred or rambling speech, drowsiness, unusual irascibility, belligerence, uncharacteristic negligence, etc. These indicators may be combined with profuse perspiring, unusually red eyes, inability to answer simple questions, etc. Employees may only be referred for reasonable suspicion alcohol testing under the DOT regulations when the employee is performing Safety-Sensitive Functions, just before he or she is going to engage in Safety Sensitive Functions or just after he or she has ceased performing said functions. If they are not, a non-DOT reasonable suspicion test should be required.

Only supervisors and managers who are trained to identify and/or detect the signs, symptoms and effects of drug and alcohol use may refer an employee for reasonable suspicion drug and/or alcohol testing. Supervisors who do not have the requisite training, and who suspect that an employee is under the influence of drugs and/or alcohol, should report his or her observations to a supervisor who has the required training. If the reviewing supervisor confirms the reported observations, he/she should recommend referral of the employee for testing. Employees who are referred for reasonable suspicion drug and/or alcohol testing must be transported to and from the testing facility, unless the testing is conducted at the worksite.

C. Random Testing

Employees who are required by law and as a condition of employment to have a commercial driver's license comprise the DOT Random Testing Pool. An employee is only subject to random testing for alcohol while the

employee is performing Safety-Sensitive Functions, just before the employee is to perform Safety Sensitive Functions, or just after the employee has ceased performing such functions.

(Note: This restriction does not apply to employees who are randomly selected for drug testing.)

The Drug and Alcohol Program Administrator will notify the operating department when random drug and/or alcohol tests are required, and provide signed Drug/Alcohol Evaluation Notice forms.

D. Post-Accident Testing

Employees who are involved in vehicular accidents must be issued a Drug/Alcohol Evaluation Notice and referred for drug and/or alcohol tests when the accident results in one or more of the following outcomes:

1. Loss of human life; OR

2. Issuance of a citation to the employee under state or local law for a moving traffic violation arising from the accident if the accident involves:

- (a) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; OR

- (b) One or more of the motor vehicles incurring disabling

damage as a result
of the accident
must be transported
from the scene by a
tow truck or other
vehicle.

Under the regulations, the testing can only be performed for alcohol if the citation is issued within eight (8) hours of the incident and for drugs if the citation is issued within thirty-two (32) hours of the incident. Employees involved in accidents that require Post-Accident drug and alcohol tests must remain immediately available for testing, and are prohibited from consuming alcohol for the eight (8) hour period immediately following the accident, or until they have undergone testing. Failure to comply with this requirement will subject the employee to disciplinary action, up to and including dismissal. (This requirement is not to be construed as requiring employees to delay medical attention, or prohibiting them from leaving the scene of an accident to summon help or obtain necessary emergency medical care).

All referrals for Post-Accident drug and alcohol tests must be made as soon after the accident as practicable. Unnecessary delays are to be avoided, and the following restrictions are to be observed:

1. If an employee is not tested for alcohol within two (2) hours post accident, the referring supervisor must document the reason(s) for the delay; attach it to a completed copy of the Drug/Alcohol Evaluation Notice; and forward it to the Drug and Alcohol Program Administrator.
2. If an employee is not tested for alcohol within eight (8) hours post accident, all attempts to test the employee for alcohol must cease, and the referring supervisor must document the reason(s) for the delay; attach it to a copy of the Drug/Alcohol Evaluation

Notice; and forward it to the Drug and Alcohol Program Administrator.

3. If an employee is not tested for drugs within thirty-two (32) hours post accident, all attempts to test the employee for drugs must cease, and the referring supervisor must document the reason(s) for the delay; attach it to a copy of the Drug/Alcohol Evaluation Notice; and forward it to the Drug and Alcohol Program Administrator.

E. Return-to-Duty Testing

Employees who are given a mandatory referral to the E.A.P. following a positive alcohol test, or who voluntarily disclose a drug and/or alcohol problem, must test negative for drugs and/or below 0.02 for alcohol before returning to work. Specifically, when an employee is released to return to work by the E.A.P.'s Substance Abuse Professional (SAP), the Drug and Alcohol Program Administrator (DAPA) will notify the operating department, and provide a Drug/Alcohol Evaluation Notice. The operating department must contact the employee and issue the Drug/Alcohol Evaluation Notice for return-to-duty drug and/or alcohol tests.

Only after the DAPA receives and reports negative results to the appointing authority can an employee return to his or her position. All return-to-duty drug testing must be carried out under direct observation as described in Section VI. Definitions (J.) "Directly Observed Drug Screen" on page 3.

F. Follow-Up Testing

Employees who return to work following release from the E.A.P. must submit to a minimum of six (6) unannounced follow-up drug and/or alcohol tests during the first twelve (12) month-period immediately following the return to work, or as prescribed by the Substance Abuse Professional (SAP). When a follow-up test is required, the Drug and Alcohol Program Administrator (DAPA) will notify the operating department and provide a Drug/Alcohol Evaluation Notice. The operating department must issue the Drug/Alcohol Evaluation Notice and refer the employee for follow-up drug and/or alcohol tests. All follow-up drug testing must be carried out under direct observation as described in Section VI. Definitions (J.) "Directly Observed Drug Screen" on page 3.

XI. TEST REFERRAL PROCEDURE:

The procedure below is to be followed when referring employees for drug and/or alcohol tests required under Section X of this regulation. (See restrictions on alcohol testing noted at the end of this section.)

A. Fill in employee's name, social security number, and department in the space provided on the Drug/Alcohol Evaluation Notice form.

B. Check the boxes on the Drug/Alcohol Evaluation Notice form to indicate:

1. That the employee is being referred for DOT tests;

2. Whether the testing circumstance is Reasonable Suspicion or Post-Accident.

If the circumstance is Reasonable Suspicion, fill out the reverse side of the form documenting what behaviors and other factors have been observed to constitute reasonable

suspicion that the employee may be under the influence;

3. Whether the employee is to be tested for drugs, alcohol, or both.

C. Fill in the date that the Drug/Alcohol Evaluation Notice form is issued to the employee in the space provided.

D. Have the employee who is to be referred for testing sign the Drug/Alcohol Evaluation Notice form in the space provided.

E. Make a copy of the completed "Drug/Alcohol Evaluation Notice" form, attach any required documentation (e.g., reason for test delay) to the form, and forward it to the Drug and Alcohol Program Administrator.

F. Issue the Drug/Alcohol Evaluation Notice to the employee and transport or direct the employee to the testing facility. (If the employee is being referred for reasonable suspicion testing, he/she must be transported to the testing facility by a supervisor who must remain at the facility during the testing process.) Testing can also be conducted by dispatching the onsite collector to any City work site or hospital emergency room.

NOTE: Under the regulations alcohol testing is authorized only if the required observations are made during, just preceding or just after the period of the work day that the driver is required to be in compliance with the regulations. If this is not the case, he or she should be referred for non-DOT reasonable suspicion testing.

XII. SAMPLE COLLECTION AND RETESTING:

Employees will not be directly observed when providing a urine sample, except under the following circumstances:

A. A specimen has been declared invalid and the MRO reported that there was no adequate medical explanation for the result.

B. The MRO has reported that the original positive, adulterated or substituted test result had to be cancelled because the test of the split specimen could not be performed.

C. The collector observes materials brought to the collection site or employee conduct at the collection site that indicate an attempt to tamper with the specimen.

D. The specimen temperature is outside the acceptable range, or it is apparent that tampering with the specimen has occurred.

E. The MRO reports a negative-dilute result with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5mg/dL and states that a second collection must take place under direct observation.

F. The test is a Return-to-Duty or Follow-Up test. When a directly observed collection is required in the situations listed above, the observer must be an employee of the collection service and the same gender as the donor. The donor will be directed to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist, just above the navel; and lower clothing and underpants to mid-thigh; and to show the observer-by turning around-that the employee does not have a prosthetic device. After which, the observer may permit the employee to return clothing to its proper position. The observer must personally and directly watch the urine go from the employee's body into the collection container. Any employee who declines to allow a directly observed collection as required under the above circumstances will be declared to have committed a refusal to test.

Samples collected under the City's drug and alcohol testing program will be tested only to determine the validity and the presence of drugs or drug metabolites (marijuana, cocaine, opiates, phencyclidine, amphetamine/methamphetamine and MDMA) and alcohol in an employee's system.

All urine samples will be split. When there is a confirmed positive, adulterated, substituted or invalid DOT drug test result, the Medical Review Officer (MRO) or his staff will make reasonable efforts to contact the affected employee and then the MRO will inform the employee of the result. The MRO will also advise the employee that he or she has seventy-two (72) hours to request that the positive, adulterated or substituted or invalid result be reconfirmed by a second certified laboratory.

If the employee makes the request within seventy-two (72) hours, the MRO will direct the laboratory that analyzed the primary sample to provide the split sample to an independent certified laboratory. The fee for testing the secondary sample (split) for current employees will be guaranteed by the City, with the understanding that the City will seek reimbursement from the employee requesting the test, if the second test confirms the results of the primary test.

Employees who do not request and sign for a split sample test by another certified laboratory within the required seventy-two (72) hour period will not be allowed to have the sample tested at a later date.

XIII. TEST RESULTS AND CONSEQUENCES:

A. Employees who test positive for drugs or refuse to test for drugs or alcohol will be considered guilty of misconduct and must be dismissed. As soon as the results are reported to the appointing authority, the employee must be relieved of duty, placed on forced leave as provided in Administrative Regulation No. 117 Discipline Policy and scheduled for a pre-termination review. A request form for the "forced leave" will be provided to the appointing authority and must be signed and returned to the Director of Personnel within seventy-two hours of placing an employee on forced leave.

B. Employees may be dismissed on the occasion of a first positive alcohol test (See A above). However, employees who are not dismissed after a first positive alcohol test must be placed on "forced leave" as provided by Administrative Regulation No. 117 Discipline Policy and referred to the E.A.P. for assessment, treatment, and/or referral. They must be placed on conditional Family and Medical Leave at the time they are given a Mandatory Referral to the Employee Assistance Program. A request form for "forced leave" will be provided to the appointing authority and must be signed and returned to the Director of

Personnel for approval within (72) seventy-two hours of placing an employee on forced leave.

C. Employees who test positive for alcohol, and who have previously tested positive for drugs and/or alcohol under this or any prior regulation prohibiting the illegal and/or inappropriate use of drugs and alcohol must be placed on "forced leave" and scheduled for a pre-termination hearing. (See A above). A request form for the "forced leave" will be provided to the appointing authority and must be signed and returned to the Director of Personnel for approval within (72) seventy-two hours of placing an employee on forced leave. The time interval between the two positive tests shall not be considered a mitigating factor.

D. Any employee who voluntarily discloses a substance abuse problem must be placed on "forced leave" as provided by Administrative Regulation No. 117 pending a Mandatory Referral to the E.A.P. and conditional placement on Family/Medical Leave. A request form for the "forced leave" will be provided to the appointing authority and must be signed and returned to the Director of Personnel for approval within seventy-two (72) hours of placing an employee on forced leave.

E. No driver who is found to have an alcohol concentration 0.02 or greater but less than 0.04 shall perform or continue to perform Safety Sensitive Functions until the start of the driver's next regularly scheduled duty period, not less than twenty-four (24) hours after the administration of the alcohol test. A request form for "forced leave" will be provided to the appointing authority and must be signed and returned to the Director of Personnel for approval within seventy-two (72) hours of receipt of placing an employee on forced leave. Employees who are unable to perform the duties of their positions because of a breath alcohol test ranging from 0.02 to 0.039 will be subject to discipline lesser than dismissal on the first occasion. However, any repetition of an alcohol test result ranging from 0.02 to 0.039 will subject the employee to more severe discipline, up to and including dismissal.

F. Employees who test negative for alcohol should be returned to work provided there are no observable indicators that the employee is under the influence of drugs or alcohol. If such indicators are observed, the reviewing supervisor or manager should discuss them with the medical personnel at the testing facility.

G. Any employee who is notified by the DER (DAPA) or designee to contact the MRO must do so within twenty-four (24) hours of notification. Failure to contact the MRO within the required period will subject the employee to disciplinary action up to and including dismissal.

H. Any employee who is in a position that requires a CDL and is referred to the E.A.P. following a positive alcohol test, or the voluntary disclosure of a drug or alcohol problem, must return to work within twelve (12) weeks of the referral or be dismissed. Note: Employees should be advised that any absence from work related to substance abuse treatment may be qualifying event for Family Medical Leave Act of 1993. (See Administrative Regulation No. 133.)

I. Any CDL employee who tests positive on "Return to Duty" drug and/or alcohol tests will be dismissed.

J. Any employee who is referred to the E.A.P. on a mandatory basis following a positive alcohol test or the voluntary disclosure of a drug or alcohol problem will be required to test negative on "Return to Duty" drug and/or alcohol tests before returning to work. Additionally, he or she will be subject to a minimum of six (6) unannounced follow-up drug and/or alcohol tests (or more if prescribed by the S.A.P.) during the twelve (12) month period immediately following the return to work.

K. An employee who is given a Mandatory Referral to the E.A.P. (in lieu of dismissal) because of a positive alcohol test or following the voluntary disclosure of a drug or alcohol problem, must continue to comply with the prescribed treatment plan for the length of time determined by the Substance Abuse Professional (SAP). If at any time during the prescribed treatment period an employee is reported by the S.A.P. to be out of compliance with the treatment plan the employee must be scheduled for a pre-termination hearing and dismissed.

L. Candidates who test positive for drugs or refuse to test will be removed from any eligible list(s) to which they are posted and will not be considered for employment until they provide documentation to the Director of Personnel of the successful completion of a substance abuse treatment program.

M. Current employees who test positive for drugs or alcohol or refuse to test will be dismissed and removed from any eligible list (s) and will not

be considered for re-hire until they provide documentation to the Director of Personnel of successful completion of a substance abuse treatment program.

N. Any employee or candidate for employment whose drug screen result is reported as negative dilute will be required to take an immediate, unannounced retest.

O. Dismissal under the provisions of this regulation must be preceded by a pre- termination review. The review should be held in accordance with the provisions of Administrative Regulation No. 117.

XIV. DOCUMENTATION:

Failure to comply with this section of the regulation may result in reporting delays or delay in returning employees to work following return to duty drug and/or alcohol tests. Appointing authorities should, therefore, take steps to ensure that the reporting requirements below are met in a timely manner.

A. Appointing authorities are required to issue a copy of this regulation to all employees under their authority. Issuance of the regulation must be documented by having the employee and issuing supervisor sign the attached Certification and Declaration form. The original copy of the form must be filed with Personnel Staffing Services of the Department of Personnel within five (5) working days of issuance. When issued to a new employee, attach the original copy to the New Employee Information Form. One of the two remaining copies should be retained by the operating department or agency, and the other given to the employee.

B. A completed copy of the Drug/Alcohol Evaluation Notice should be filed with the Drug and Alcohol Program Administrator within two (2) working days of issuance.

C. A completed copy of a Mandatory E.A.P. Referral Notice should be filed with the Drug and Alcohol Program Administrator within two (2) working days of issuance.

D. The Drug and Alcohol Program Administrator should be notified in writing of any employee who is dismissed for a positive drug and/or alcohol test, or a refusal to submit to testing. The notice must be filed within five (5) working days of the dismissal, and should include the employee's name, department, class title, date and reason for dismissal.

XV. PRESCRIPTION DRUGS:

Any employees who take prescription drugs (medication) should use them only in the manner prescribed. In addition, he or she should inquire about the drug's likely side effects (e.g., nausea, drowsiness, reduced reaction time, etc.). The information should be available from the prescribing physician or pharmacist who filled the prescription.

Any employee who takes a prescription or non-prescription drug (medication) that could affect his or her ability to safely perform the duties of his or her position must report its use to the immediate supervisor before the start of work. This precaution is necessary to avoid unnecessary risk to the employee and/or others. The failure of employees to report the use of such drugs to the immediate supervisor is a violation of the City's policy on drugs and alcohol, and could result in disciplinary action, up to and including dismissal.

XVI. REQUIREMENTS FOR AGENCIES RECEIVING FEDERAL FUNDS:

Under the Drug-Free Workplace Act of 1988 as amended, any City agency with a Federal contract of \$25,000 or more, or that receives funds through Federal grants must report to the granting Federal agency the name of any employee who is convicted of a criminal drug offense that takes place in the workplace. The report must be made to the Federal agency issuing the contract or grant within ten (10) calendar days after receiving notice of the conviction. Contractors and grantees who fail to report a conviction may be subject to one or more of the following sanctions:

A. Suspension of payments under the grant;

B. Suspension or termination of the grant; and

C. Suspension or debarment of the grantee from grants for a maximum period of five (5) years.

City agencies that have Federal contracts or grants are encouraged to contact the issuing Federal agency about reporting requirements under the Drug-Free Workplace Act.

XVII. CONFIDENTIALITY:

The results from all physical examinations and laboratory tests will be kept confidential, but may be used to process necessary personnel actions, including disciplinary actions, Civil Service appeals, or other litigation.

Questions regarding this regulation should be referred to the Employee Relations Section of the Department of Personnel at 622 3563. For information about related training, contact the Training and Organizational Development Division at 622 5763.

DEPARTMENT OF PERSONNEL

Richard R. Frank

Director

Revised and re-issued: January 31, 2014

Attachment

CERTIFICATION AND DECLARATION